



## STAFF REPORT

### **PRELIMINARY PLAT CATTLE CREEK RANCH PUD-SUBDIVISION**

Prepared June 6<sup>th</sup> for the June 14<sup>th</sup>, 2011  
Planning & Zoning Commission Public Hearing

**OWNER:** Morey Ranch LLC  
**AGENT:** Intermountain Aquatics  
**APPLICANT:** Katie Salsbury  
**SURVEYING:** On Sight Land Surveying, Inc.

**REQUEST:** Subdivide 40.22 acre parcel into three residential lots that also contains two non-taxed open space tracts that are governed by an open space management plan

**CODES:** Title 9 and Title 8 as amended 12/16/10; Idaho Code Title 67 Chapter 65

#### **LEGAL**

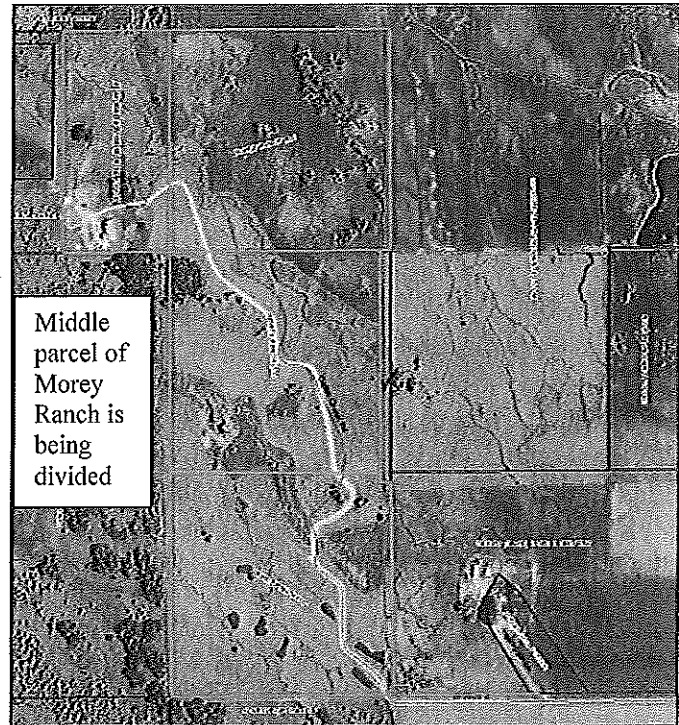
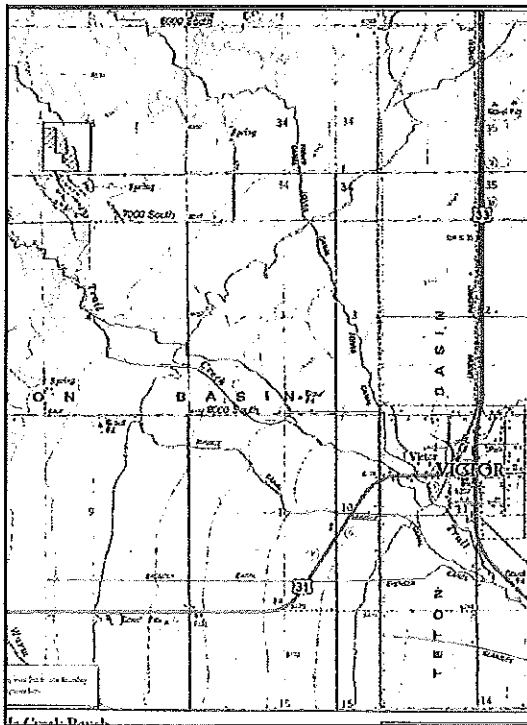
#### **DESCRIPTION**

NE ¼, SW ¼ Section 33, Twp 4N, Range 45E, B.M

#### **LOCATION:**

Road access is the west end of W 7000 South, through Morey Ranch-Parcel A

#### **VICINITY MAP**



(Right) Adjoining Morey properties to north, south, and northwest of subject property

**PROPERTY SIZE:** 40.22 acres

**ZONING:** A/RR- 2.5 (over 9 acres) and A-20 (about 30.5 acres) = (5 units possible)

**OVERLAYS:** 1) Wildlife Habitat Overlay, 2) Wetlands & Waterways

**LOTS PROPOSED:** three (3) residential lots and two (2) open space areas

**LOT SIZES:** Lot 1(4.51 acres), Lot 2 (3.74 acres), Lot 3(4.08 acres) Open Space = 27.89 acres

- **Total residential lot area** = 12.33 acres (31%)
- **Total open space area** = 27.89 acres (69%)

#### **PLANNING STAFF RECOMMENDATIONS:**

Staff recommends **APPROVAL with Conditions** of the Cattle Creek Ranch Preliminary Plat having determined that it can meet the applicable standards and criteria in Title 9 of the Teton County Subdivision Ordinance. The recommended Conditions of Approval that are enumerated at the end of this report provide guidance for the preparation of a Final Plat application.

## **BACKGROUND INFORMATION**

The preliminary plat being proposed here is on a 40.22 acre parcel, however adjoining properties to the south, north, and northwest are owned by either Morey Ranch LLC or the Morey Family Trust. The acreage of all the contiguous Morey properties is presently just over 142 acres. While this proposed subdivision is being reviewed as a stand-alone 40+ acre parcel, the access road, underground utility infrastructure, open space, cattle operations, and fencing have been designed to function with these adjoining Morey properties. The ranch gate coming off of West 7000 South provides access to all the parcels via a single entry point.

The uplands on the middle of the parcel are the best area for home site development, while much of the wetter acres are fenced to prevent cattle from entering the riparian corridors. From the perspective of the entire contiguous 140+ acres of "family ranch", the three proposed home sites are truly clustered and at present there is much more associated undeveloped open space that lies on the adjoining family holdings. Given the descriptions in the application, and the coordinated infrastructure development, this development could be characterized as a conservation subdivision, the type of which allows for the continuation of agriculture (grazing) and the grouping of houses in a fairly compact area.

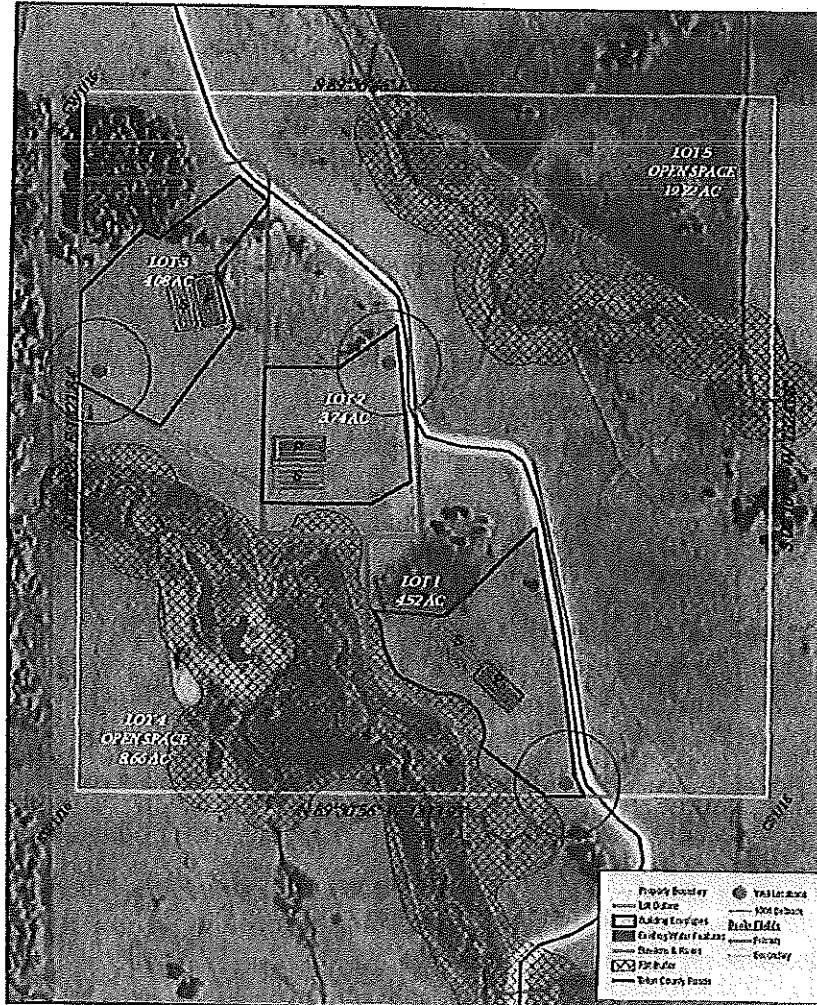
## **KEY CONSIDERATIONS:**

- **Wetland-protection:** About 24 acres of this 40 acre parcel has been studied and delineated as jurisdictional wetlands and the property is likewise depicted within the county's Wetlands and Waterways Overlay. The primary types of palustrine emergent wetlands present here are characterized by seasonally-fluctuating high ground water and this allows for the detention and the steady, less erratic release of water into nearby streams. The detention of water within natural wetlands is ecologically important to water birds and to the Teton River watershed. The county's WW Overlay ordinance strives to protect the wetlands so that they can perform their function without undue disturbance. In compliance with the Development Criteria in 8-5-2-D-a-iii, the owners have planned development on the 15.9 acres of upland and placed the wetlands in protected open space. Since livestock use the property, the owners have installed enclosure fencing and presented a pasture plan to exclude stock during wet periods. If followed, this will lessen impacts to the wetlands and ephemeral stream banks from cattle trampling. The owners are implementing this grazing plan with the input of NRCS rangeland professionals. The fenced protection of the water features can prevent significant amounts of sediment and fresh manure from entering the flowing waterways, which exit the property to the south.



Onsite wetlands and waterways are protected by extensive fencing, preventing access from cattle

- **Advanced waste-water treatment leachfields required:** Eastern Idaho Public Health District considered the wetlands and relatively shallow depth-to-groundwater levels onsite and determined that the three lots will require advanced - engineered septic systems for future homes to be built on the lots. Given the use of these engineered designs and the careful placement of the leachfields locations at least 100-feet from surface waters, EIPHD determined that the three proposed building envelopes were capable of meeting the specifications in their Technical Guidance Manual.
- When future homebuilders apply for an individual wastewater system permit, they are expected to utilize that lot's designated leachfield's location and to employ advanced engineering systems. Acceptable locations for the leachfields were identified and designated by the Nutrient -Pathogen engineering study. A recommended Condition of Approval in this report stipulates an up-front disclosure about these somewhat specialized, more expensive engineered septic system requirements.



#### **CONSISTENCY WITH THE APPLICABLE POLICIES OF 2004-2010 TC COMPREHENSIVE PLAN**

The 2004 Comprehensive Plan enumerated a vision and set of policies for the Valley that are listed below. The Commission should examine these statements and consider the Planning Staff's and applicant's responses about how the Cattle Creek Ranch Preliminary Plat relates to them.

#### **Chapter 5 Property Rights:**

*Policy 3: The land use ordinances and actions of Teton County, including the policies, restrictions, conditions and fees, shall not violate private property rights, shall minimize adverse impact on property values and minimize technical limitation on the use of property consistent with state and*

*federal constitution and statutory law. Implementation is implicit in and mandated by state and federal law.*

- ✓ Complies/ NA: The constitutional right to develop in accordance with the County's specific zoning and subdivision regulations is not in question here.

#### **Chapter 6 Population:**

*Policy 1: Demographic information is important and needs to be gathered by the county government and continually updated.*

- ✓ Complies: The net increase in the number of new household properties resulting from the Cattle Creek Ranch subdivision would be two additional lots beyond the existing lot. The new subdivision would be included in the County's GIS and database in accord with Population Policy #1. A new address will be assigned at the Final Plat stage.

#### **Chapter 8 Economic Development**

*Policy 3: One of the county's prime economic values is the attraction of a rural, small town lifestyle, magnificent views, clean air and water, and abundances of outdoor recreational opportunities. Development and land use proposals that support and balance these values with desirable growth should be encouraged.*

- ✓ Complies: The density possible here is five (5) units and the proposal is for three (3) on 40 acres. This is more in keeping with the balance of growth and the protection of clean water and the rural lifestyle that is mentioned in this economic policy goal.

#### **Chapter 9 Land Use**

*Policy 1: Protect open space throughout the county. Enhance the mechanisms available to incorporate the same in developments.*

- ✓ Complies. This subdivision proposes open space tracts that contain the most environmentally sensitive habitat areas on the property. Approximately 24 acres of open space are dedicated on this 40 acre property.

*Policy 2: The scenic corridor is valued and view corridors should be maintained and protected. Guide development along the county's highways so that a sense of open space is protected. It is recognized that views across the valley from the main transportation routes are integral to the rural experience and a sense of open space in Teton Valley. It is desirable to maintain view corridors.*

- ✓ Complies: The Scenic Corridor would not be impacted from these units of development because it is far from the protected corridor and there is adequate natural screening on the property.

*Policy 3: Accommodate new residential growth in the county using methods that preserve Teton Valley's pristine qualities and foster efficient provision of services. Concentrate higher-density development in the cities or in their areas of impact. (See Implementation 10)*

- ✓ Complies: The proposed amount of density on this lot will help preserve the pristine qualities of the area as opposed to a higher amount of density with more suburban type runoff characteristics. The proposed density is more congruent to the Comp-Plan goals than the zoning designation, which theoretically allowed 5 units.

*Policy 4: Higher density developments should be located within or near the cities or within or near their areas of impact. Developments in the unincorporated county may be based on the density based zoning concept which will provide significant open space.*

- ✓ Complies: This development clusters the housing on 40 acres, but the overall Morey properties are 142 acres and given this, the clustering proposed becomes even better suited to this rural area when viewed as an entire ranch.

#### **Chapter 10 Natural Resources:**

Policy 2: *Protect the County's surface and ground waters, wetlands and riparian areas through responsible development and incentives to help landowners conserve important water resources. This policy will apply to all surface waterways, underground waters, and areas shown as wetlands within the National Wetlands Inventory as prepared by the U.S. Fish and Wildlife Service in June 1993, and any updates of the National Wetlands Inventory that might be provided. The National Wetlands Inventory Map shall be used to update Map No.5 Critical Overlay Areas for waterway and wetland resources and shall be modified periodically to help reflect the current understanding of water resources as necessary.*

- ✓ Complies: The disturbance areas are not in wetlands and there is a buffer between the riparian areas and disturbance areas. The N-P Study and Natural Resources Analysis have identified the environmental constraints and the proposal avoids those areas to a reasonable degree.

Policy 4: *Conserve and protect esthetic values including scenic open spaces, quiet neighborhoods, dark night skies, clean air, safe communities, and accessible public lands.*

- ✓ Complies: The density is three units for 40 acres, which is consistent with maintaining rural aesthetic values in this quiet neighborhood.

Policy 5: *Encourage the conservation and protection of important plant, fish and wildlife habitats.*

- ✓ Complies: This plan provides for a vegetation buffer between the building envelopes and the wet areas.

Policy 6: *Ensure that noxious weeds are consistently and effectively controlled in compliance with state regulations and guidelines.*

- ✓ Complies: A well-conceived weed treatment plan is presented in the Open Space Plan and it is required in the Development Agreement.

Implementation 5: *Ensure that development respects the integrity of the streams, stream channels and riparian areas.*

- ✓ Complies: This plan provides for a vegetation buffer between the building envelopes and most of the riparian vegetation. The open space areas contains the wet areas.

### **Chapter 11 Hazardous Areas**

Policy 2: *Encourage incentives that work to reduce the threat of personal injury, loss of life, and or damage to private property from flooding.*

- ✓ Complies: this is Zone X and there are no special requirements here.

### **Chapter 12 Public Services & Utilities:**

Policy 6: *Investigate methods for disposing of solid waste including recycling, transfer, expanded landfill, and alternative uses.*

- ✓ Complies: The subdivision is required to dispose of solid waste offsite and in an approved manner. It is recommended that approved ways of handling trash be used.

### **Chapter 13 Transportation**

*"Many of the county roads are not appropriately engineered for significant increases in private or commercial traffic. Allowing only lower-density developments in the unincorporated county will help minimize the strain on the county's road and bridge budget as the county grows. Directing denser growth near the existing cities will help maximize efficient provision of road maintenance and water and sewer services."*

- ✓ Complies: No offsite road or traffic measures are required by the County Engineer. The impact fees will accommodate for the pro-rata share of public road wear and tear resulting from new subdivision lots.

**Chapter 14 Recreation**

**Policy 4:** *Encourage the preservation of the serene environment of the Teton River and other streams and access to them.*

✓ Complies: The proposed designation of open space area limits future development on the lot.

✓ **Chapter 16 Housing**

**Policy 3:** *High-density developments should be within the cities and city impact areas whenever possible.*

✓ Complies: This is a low density development and its location is acceptable in relation to the areas of city impact.

**Chapter 17 Community Design**

**Policy 1:** *Encourage the preservation of the scenic vistas, open space, mountains, forests, night skies and wetlands.*

**Policy 2:** *Encourage the preservation of the county's rural character.*

✓ Complies: The proposed density, open space and limits on lighting should ensure compliance with these policies.

**REVIEW OF THE APPLICABLE TETON COUNTY ORDINANCES**

**(8-3-3-B) Split Zoning** This property has both A20 and ARR 2.5 zoning on it. A new (2011) section of code on Split Zoning states:

- **B. PUD and Subdivision Applications:** *When boundaries of the districts as shown on the official zoning map are drawn so that a proposed PUD or subdivision has more than one zoning district designation, the number of lots per acre shall be calculated by the percentage split among the zoning districts by area. Lot numbers shall be rounded down to the nearest whole number.*

This 40 acre property would calculate out at about 5.1 units. Since only 3 units are proposed, the proposal clearly complies.

**9-3-2(B)-Concept Review Phase:** A Concept Plan Review was reviewed by then Administrator Patrick Vaile in August 2008. A Cattle Creek plan presented in 2008 included the entire 141 acres and 5 residential lots. The three lots depicted on that plan's middle 40-acres are similar to what is proposed now and there was also one lot to the south (a Morey parcel) that is not depicted on this plan.

**9-3-2 (C) Subdivision or Planned Unit Development:** All required items were submitted and have been reviewed and the various comment letters and recommendations have been translated into staff's recommended Conditions of Approval; see agency comments below. Revisions to the original plans and reports were requested from the County Engineer and DEQ. Idaho Fish & Game also received the revised Natural Resources Analysis dated May, 2011 (parcel is mapped with an Overlay Area).

**Wetland Delineation Report for Cattle Creek Property-**

Intermountain Aquatics, Inc. performed a jurisdictional wetland delineation on the 142-acre Morey Ranch. Numerous springs emerge on the eastern side of the property and altogether 94-acres of the 142-acres (entire Morey holdings) were mapped as wetlands. The uplands are shown on the delineation and this is where the three lots are proposed. The palustrine emergent wetland- persistent-saturated type of vegetation comprises the protected open space on this development.

**9-3-2-(C)-2-b Natural Resources Analysis-** Intermountain Aquatics submitted a Natural Resource Analysis, per the code requirement. This report contains a Wildlife Habitat Assessment component as required in the code. Aside from the 24-acres of Priority Wetlands Habitat on the parcel, the Wildlife



Habitat Overlay specifically has the following habitat units mapped on the parcel: 1) Waterbird Migration- Foraging Habitat, 2) Songbird/Raptor Breeding and Wintering Habitat.

The NRA identified two spring creeks onsite; both are groundwater fed and are not flood prone. The FEMA classification is Zone X, (100 to 500 year floods) which imposes no special building requirements.

Table 1 of the NRA lists the expected impacts and proposed mitigations to reduce the impacts of development. These measures have been incorporated into the subdivision design, and in some cases implemented on the ground already. The mitigations below have been incorporated into the recommended conditions of approval for the subdivision.

**TABLE 1. IMPACTS AND PROPOSED MITIGATION MEASURES ON THE CATTLE CREEK RANCH**

IMPACTS	PROPOSED MITIGATION MEASURES
Disturbance of water birds by humans and wildlife.	Recommendations for recreational use and pet control in the land use management plan. 75 feet buffer from spring creeks.
Threats to large water birds by powerlines.	All utilities are buried.
Threats to large water birds by barbed wire fences across the waterways.	The majority of these fences have been removed and perimeter fencing across the waterways shall be flagged.
Unusable for nesting for long-billed curlew and sandhill crane.	Best Management Practices to regenerate the willow/riparian areas will help buffer the surrounding wetlands from the development.
Unusable for raptor nesting in the aspen forests.	Continued practices to increase the understory of the aspen forests will benefit songbirds and other forest dependent species.

Land Management Plan: The Cattle Creek Open Space Plan, CC& R, and the NRA propose detailed management strategies to meet the requirements of this section of the code. This plan includes a well conceived cattle Grazing Plan that uses a set of Best Management Practices for the cattle grazing; these BMP have been set forth with the consultation from the Natural resources Conservation Service.

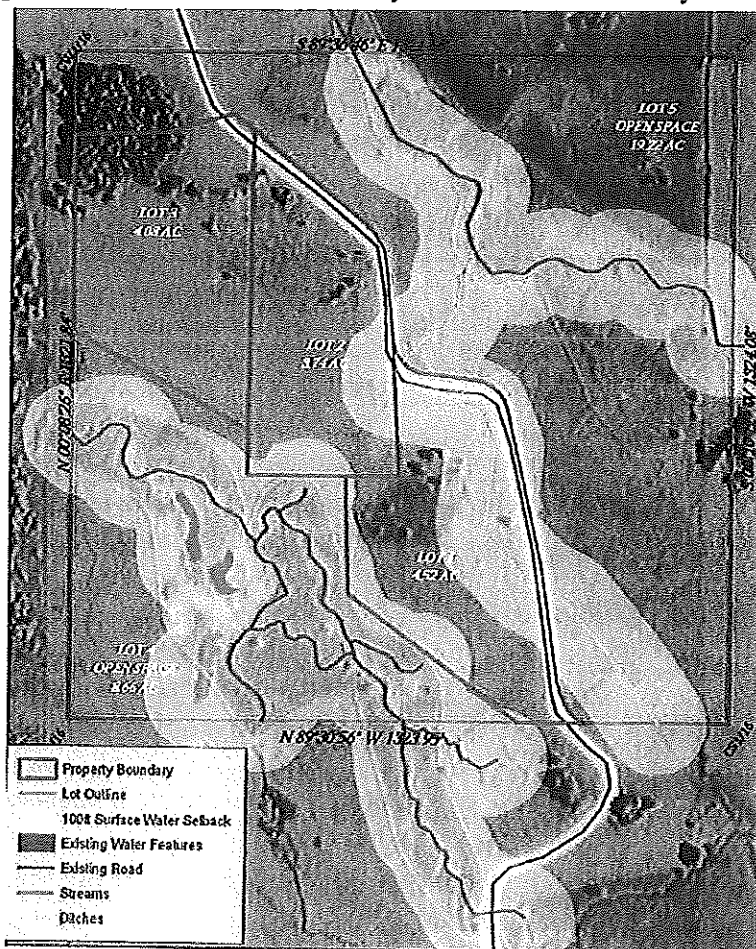
A Weed management Plan provides for baseline mapping of infestations, and proposes an annual budget for the cost associated with managing the open space (weed treatment) by the HOA. If other subdivisions in this county formulated and implemented the type of land management plans that are presented here on the Cattle Creek Ranch, then the conservation goals of both landowners and the community would be well-served.

Landscape Plan: The applicant is being required by the County Engineer to revegetate all disturbed areas. This satisfies 9-4-1 (G-H). Elsewhere a weed management plan has will be implemented.

#### 9-3-2(C-3-A) Nutrient-Pathogen Evaluation for Cattle Creek Ranch-

Intermountain Aquatics and Idaho PE Eric August prepared a Level I Nutrient-Pathogen Evaluation that concluded that the built-out subdivision, as planned with the specified leachfield locations, will have a negligible impact on groundwater quality. Among the recommendations, he wrote "due to shallow groundwater conditions and potential connection to surface water outside the lot boundaries, an advanced treatment system and hundred feet setbacks from surface water for all septic tanks and

leachfields is recommended". These setbacks (shown below) show the available areas for leachfields and replacement areas and the area is also depicted on sheet 2 of the Master Plan. See the N-P review comments from Idaho DEQ. Harmony Design & Engineering was contracted to reviewed the N-P study according to the Teton County standards, which are somewhat different from the states. A HDE letter of April 13, asked for more information. On June 6, P.E. Jennifer Zung verbally confirmed that all the N-P Study requirements have been met using the proposed leach field locations, effluent concentrations, and quantities that can be handled by advanced treatment systems.



9-3-2(C-3-C) Public Service/Fiscal Analysis: Fiscal impact analysis for rural subdivisions less than 20 lots is not required. Staff did plug in the miles of County Road traveled (to State Highway) which was 1-3 miles and a range of value estimates for the property. The fiscal impact calculation is attached at the end of this staff report.

9-3-2(D) Traffic Impact Study: No study was required since there are fewer than 10 lots.

9-4-1 Development Standards: The individual subsections are summarized below:

- (A) Dedications: Complies. The Cattle Creek Road will be dedicated to the HOA, which is acceptable.
- (B) Specifications: More information needed. All right-of-way specifications need to clearly conform. The access road has already been constructed, reportedly to County specs, but a set of as-built improvement plans needs to be submitted to the County Engineer for review.
- (C) Street & Road Locations: Complies. The location and arrangement of streets is acceptable.
- (D) Easements: More information needed. The County Engineer requires a slight modification of an easement, due to a waterway encroachment. A set of revised plans needs to be accepted prior to Final Plat submittal.



(E) Blocks: Not applicable.

(F) Lots: Complies.

(G) Planting Strips: Complies-No strips or buffers are required for this isolated location.

(H) Landscaping: Complies.

(I) CC& Rs: Complies. The Cattle Creek CC&R have various clauses related to County ordinances. One clause is for outdoor lighting and it could more specifically reference the Teton County ordinance 9-4-12. Domestic pets should be somehow restrained or excluded from certain areas in the subdivision. The control of pets is listed as a mitigation measure in the NRA and it should therefore be enumerated in the CC&R where residents are most likely to read about it. This pet-control clause also reinforces the standard IDFG recommendations.

(J) Access: Complies- legal access is provided and no second access required.

(K) Outdoor Lighting: Complies- CC& R contains a lighting clause; no other lighting is proposed.

9-4-2 (B) Required Public Improvements: The County Engineer and Fire District have reviewed the improvement plans and comments are attached to this staff report. The Fire District outright approved the plans. The County Engineer required some improvement plan revisions and Planning Staff is requesting that these should be reviewed and approved prior to submission/ acceptance of a Final Plat application.

9-4-2 (B-7) Water Supply and Sewage Systems: Individual wells are proposed and an approval with Department of Water Resources is required. EIPHD will review the septic permit application for houses, typically when the house size is known and building permits are submitted.

9-4-2-(C) Guarantee of Completion: Before the completion of the Final Plat stage, a method must be agreed to (Development Agreement) and an engineer's estimated cost of improvements must be approved and some form of collateral established. Much of the infrastructure for Cattle Creek is already constructed. The fire pool and some revegetation could be bonded for, or the work could be physically completed before the plat is recorded.

9-5-1 (E) Deeding or Dedication of Open Space: The Final Plat should make a clear notation about who the Open Space is dedicated to, such as the Cattle Creek HOA.

9-5-1 (F) Management of Open Space: The Cattle Creek Open Space Management Plan proposes a dedicated funding source from the HOA. The open space plan protects wetlands primarily and there is a provision to manage noxious weeds and to graze the cattle in a productive and sustainable manner.

9-5-2 (D) Community Benefits: The Cattle Creek open space on the 40 acre lot is 69% of the parcel and the code requires that 50% of the gross area be dedicated open space. Some of the open space will function for agriculture (grazing), which is deemed a community benefit when done in the context of a Rural Reserve PUD. Preservation of wetlands also benefits the community's watershed.

9-5-2 (E) Clustered Development: The six standards in this section have been met.

Cattle Creek Ranch Subdivision Development Agreement: The Development Agreement used the County's template. The Cattle Creek DA follows the template and thereby meets the County requirements. In the Final Plat, the DA will have to update the Improvements Plans' date of February 25, 2011, listed on page 2. Other dates and addresses should be double-checked at the time of Final Plat.

**AGENCY & DEPARTMENTAL TECHNICAL COMMENTS**

Idaho DEQ: DEQ reviewed the "Water Quality Impact Analysis" (N-P Study) according to state standards. Their initial letter of February 22, 2011 is attached. The applicant's required revisions were examined again and the DEQ letter of April 21 confirmed that "DEQ feels that all previous comments have been addressed". They also stated "Installation of advanced treatment units for the septic systems was proposed for each lot in the analysis in order to achieve an effluent quality of 27mg/l nitrate concentration". DEQ noted that the location and placement of the drain fields is important and that EIPHD should be consulted about this.

Eastern Idaho Public Health District: In the April 18, 2011 letter EIPHD requested that the final plat or a separate facilities plan show the location of the drain fields since the upland areas are limited on this 40-acre property. In accordance with the N-P Study, EIPHD specified that advanced treatment systems are required and the systems need to obtain nitrate concentrations of 27mg/l with a maximum waste flow of 300gal/day/lot.

Teton County Engineer: A letter from Jay Mazalewski dated March 23, 2011 identified several items that needed to be addressed. The applicant submitted a response and revised set of Improvement Plans dated June 7<sup>th</sup>, 2011. At the time of this report's release (June 7<sup>th</sup>), the revised plans have not been reviewed. Planning Staff and the County Engineer will try to review the revised improvement plans before the public hearing and apprise the Commissioner of our evaluations.

Idaho Department of Fish & Game: No written response at the time of this report's writing. According to an IFGD employee, a written response has been drafted about the Natural Resources Analysis. No significant issues came up from a conversation with the IDFG field employee.

Teton County Fire Protection District: Bret Campbell's email of March 16, 2011 indicated that the subdivision fire protection plans are approved as designed. The subdivision plans to have an excavated pool of 40 cubic yards dug within a flowing waterway. A dry hydrant will be installed and a "T" fire department turn around will be constructed. Cost estimates of \$5109 for the fire protection improvements are found in the submittal. A contingency of 25 % (\$1277) needs to be added to this estimate, bringing the total to \$6386.

US Army Corp of Engineers: The Corp has previously dealt with the various wetlands and small crossings on the Morey properties. A Corp authorization has been made to excavate the fire "pool". No further issues were commented upon.

**PUBLIC NOTICE:**

1. Legal ads were made to the Teton Valley News in accordance with local and state requirements.
2. A development notification was mailed to landowners within 300 feet and to those who own land within subdivisions within 300 feet of the subject property.
3. A development notice was posted onsite in accordance with all code requirements.

**COMMENTS FROM NOTIFIED NEIGHBORS AND GENERAL PUBLIC**

No comments have been received at the time of this reports writing.

**FINDINGS OF FACT:**

**Title 9-3-2(C-8) Commission's Criteria for Recommendations of a Preliminary Plat:**

"The Commission shall only recommend approval if it finds that all of the following criteria have been met (or if it finds that some of the criteria have not been met, recommend approval with conditions that would ensure that the proposed development meets the criteria):"

*A. The application is consistent with the Comprehensive Plan. (amd. 11-14-08)*

- ✓ True, this staff report analyzed the Comp-Plan goals and found this application is generally consistent.

*B. The application complies with all applicable County regulations. (amd. 11-14-08)*

- ✓ The Planning Staff reviewed the regulations, along with several technical review entities, and this report highlights that regulatory review. It was found that the application complies with the regulations so long as the conditions of approval are implemented.

*C. If the application is for a PUD, it complies with any regulations applicable to PUDs under Chapter 5 of Title 9, including without limitation regulations controlling the types and locations of open space to be included in the development and the required design and size of development clusters. If the application is for a Planned Community PUD, the application adequately mitigates any impacts identified in those additional studies required by Section 9-3-2(C). (amd. 11-14-08)*

- ✓ This PUD complies with the applicable regulations and proposes acceptable type and locations for open space.

*D. The application includes trails and pathways as required by Section 9-4-2(B-4) to the maximum extent feasible. (amd. 11-14-08)*

- ✓ It was found that no pathway or trail needs to be required for this proposal.

*E. The application is consistent with the results of any Nutrient-Pathogen Study required for the property and includes any conditions or changes required to avoid any potential degradation of surface or groundwater identified in that study. (amd. 11-14-08)*

- ✓ The Cattle Creek N-P Study includes locations and technology to protect against water quality degradation and the Idaho DEQ and EIPHD further examined their study.

*F. The application is consistent with the recommendations of any report on the adequacy of the proposed sewage system for the development and includes any recommended mitigation measures identified in that report. (amd. 11-14-08)*

- ✓ This application is consistent with the EIPHD letter of review that stipulates advanced treatment systems and specified locations from the N-P study.

*G. The application is consistent with any Traffic Impact Study required for the property and will not result in a decrease in the level of service (for example, from level of service B to C) on any State Highway or a maintained county road and includes any mitigation measures recommended in the Traffic Impact Study. (amd. 11-14-08)*

- ✓ This application is consistent because no significant increase of traffic is expected from 3 lots, and no traffic impact study was required. There is a net increase in only two units of development traffic generation. The County Engineer provided input on the project and no special traffic mitigation measures were required.

*H. If the application is for land that is not adjacent to a State Highway or a maintained county road, the applicant will bear the costs of constructing roads to connect the proposed development to at least one State Highway or a maintained county road, and adequate for anticipated traffic and will be constructed to County Road Standards. (amd. 11-14-08)*

- ✓ The applicant will contribute to an impact fee and thereby assist in bearing the cost of wear and tear to the county road (7000 South).
- I. *If a Natural Resources Analysis is required the proposed development will avoid all mapped Overlay Areas (except the AV Airport Vicinity Overlay Area), or will minimize any unavoidable impacts to the mapped Overlay Areas to the maximum extent feasible and mitigate any unavoidable impacts. In the case of land located in the WH Overlay Area, the duty to avoid or mitigate impacts on habitat areas shall only apply if the wildlife habitat assessment reveals evidence of an indicator species or the presence of indicator habitat, and shall only apply to portions of the parcel where the evidence or habitat is found. (amd. 11-14-08)*
- ✓ The Cattle Creek NRA and associated CC&R and open space plans mitigate, to the maximum extent feasible, the unavoidable impacts to the environment and wildlife.
- J. *The required Public Service/Fiscal Analysis shows that all public services provided to the proposed subdivision or PUD have adequate capacity to service it, or if they do not, the applicant has committed to mitigation or financing to ensure that those services and facilities will be provided within two (2) years after the first unit in the development is occupied and that any shortfall of tax revenues below the costs of providing the services or facilities will be covered without cost to the County. (amd. 11-14-08)*
- ✓ No Fiscal Impact Analysis was strictly required for these three lots; however, there is adequate capacity to serve the three lots with all public utilities and to provide public services such as fire suppression and EMS service. Public roads access the Morey property off 7000 South.
- K. *The application is consistent with any capital improvements plan adopted by the County.*
- ✓ The application is consistent with the capital improvements plan of the County.
- L. *An adequate institutional structure has been created to ensure that long-term maintenance costs of roads, water, sewer, and drainage systems will be collected from within the development and used to maintain such items. If the chosen structure relies on payments of dues (for example, through a homeowners association) rather than taxes, the county shall be granted the institutional power to enforce payments of those dues in the event the organization fails to do so. (amd. 11-14-08)*
- ✓ An HOA will be established and fees will be collected for the joint cost of infrastructure maintenance and for management of open space, including weed treatment.
- M. *If land ownership boundaries or natural terrain features make it impossible for the application to meet all of the criteria outlined in Section 9-3-2(C- 3), the application shall meet as many of the criteria as possible. (amd. 11-14-08)*
- ✓ The criteria are all met and there are no terrain or ownership issues here.
- N. *In addition to the above, for a Planned Community PUD, the application is consistent with the recommendations of any report on the adequacy of the school system to accommodate school aged children anticipated by the development, and includes any recommended mitigation measures identified in that study. If the applicant is obligated to pay an impact fee for schools, then mitigation measures identified in the report will not be required. (amd. 11-14-08)*
- ✓ The School District has not indicated to the Planning Department any recommended mitigation measures to offset the impacts of additional children attending local schools. The net increase of two homes is fairly insignificant, and the Cattle Creek subdivision is being built to accommodate an extended family group that already lives in the Valley.

**RECOMMENDED CONDITIONS OF APPROVAL**

1. Waste water system requirements: In accordance with provisions in Section 9-3-2 (C-3) N-P Evaluation, with the Intermountain Aquatics N-P Study recommendations, and with the Idaho DEQ and Eastern Idaho Public Health District letter recommendations:

The applicant shall amend the Master Plan and CC&R to provide a disclosure that advanced wastewater treatment systems are required and must be professionally engineered, installed, and properly maintained. Said system shall be designed by an Idaho licensed Professional Engineer.

2. Wildlife Impact mitigation: In order to comply with the Design Review Criteria in Section 9-3-2 (C-2-c-WH-vi), the NRA report's recommendations, and the standard Idaho Fish & Game Department recommendations, the applicant shall amend the Master Plan and CC&R to include the following wildlife impact mitigation measures:

- a) The land owners shall not file a claim against the Idaho Department of Fish & Game for wildlife damage to the property. (IDFG)
- b) The feeding or harassment of wildlife is prohibited. Song birds' feeders are acceptable. (IDFG & NRA)
- c) Pets, including dogs and cats, should be restrained or directly attended at all times (IDFG and NRA)
- d) All fences shall be constructed to allow wildlife passage. The IDFG fencing standards should be used: barbed wire fences shall not be taller than 42 inches, have a smooth wire on top, and constructed to let down in winter. (IDFG)
- e) Domestic livestock feed shall be stored tightly to exclude deer and elk. (IDFG)
- f) Utility lines shall be constructed underground. (Teton County, IDFG)
- g) The residents (and eventually the HOA) shall annually inspect and treat noxious weeds to reduce and eventually eliminate them from the property. (Teton County, IDFG)
- h) Garbage should be kept in an approved bear-proof container and removed at least once per week. (Teton County, IDFG)

3. Engineering Considerations: The Final Plat application shall not be scheduled for a Board of County Commission Public Hearing until the remaining Improvements Plan items are clearly resolved to the satisfaction of the County Engineer. The County Engineer letter of March 23, 2010 enumerates the items that need to be addressed or resolved prior to a Final Plat application being accepted. Any further information or revision to the Improvement Plans shall also be addressed.

**PLANNING AND ZONING COMMISSION ACTION:**

- A. Recommend APPROVAL WITH CONDITIONS, having determined that the required findings of facts and all the criteria in section 9-3-2 (C-8) can be met. The recommendation of approval with conditions would ensure that the proposed development clearly meets all the criteria.
- B. Recommend DENIAL of the Preliminary Plat application and provide the reasons and justifications for the denial.
- C. CONTINUE consideration of the application to a future Planning & Zoning Commission Public Hearing with reasons given as to the continuation or need for additional information.

**PLANNING STAFF RECOMMENDATIONS:**

**Action A:** with a motion that incorporates the Staff's recommended conditions of approval listed in this staff report. Here is a suggested motion that could be used to approve the Preliminary Plat

*I recommend APPROVAL WITH CONDITIONS of the Cattle Creek Ranch Preliminary Plat application as presented at this meeting and as depicted in the application materials included in the Commission's review packet. The Planning & Zoning Commission has made findings of fact which are listed in the staff report. We conclude that all the criteria for approval of a Preliminary Plat listed in Title 9-3-2 (C-8) can be satisfied with the inclusion of the recommended conditions of approval, as presented in the staff report. \**

If needed:

\*(I recommend the following changes and additions to the Conditions of Approval listed in the staff report.....if any)

Report prepared by Planner Curt Moore

**Attachments:**

- Preliminary Plat Application
- Applicants' Preliminary Plat narrative including special reports:
  - Level 1 Nutrient Pathogen Evaluation Addendum for Cattle Creek Ranch Subdivision
  - Wetlands Delineation Report.
  - Natural Resources Analysis –Cattle Creek Ranch Property.
  - Declarations of Covenants, Conditions, & Restrictions for Cattle Creek Ranch
  - Improvements Plan
  - Water rights process initiated with IDWR.
- Idaho DEQ letters (N-P) Feb 22, April 21, 2011
- Idaho DEQ letter (channel excavation) December 28, 2010
- Intermountain Aquatics, Inc letter (N-P) March 30, 2011
- Intermountain Aquatics, Inc letter (response to County Engineer) May 31, 2011
- Harmony Design –N-P Evaluation for Cattle Creek Ranch- review. April 13, 2011
- US Army Corp of Engineer letters of October 26, 2010
- EIPHD letters of August 19, 2010, April 18, 2011
- Teton County Engineer memo of March 23, 2011
- Idaho Dept. of Water Resources October 27, 2010
- Fiscal Impact Calculations- high and low
- Teton County Fire Protection District email –March 16, 2011
- IDFG review letter